

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED
JUL 10 1997
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Advanced Television Systems)
and Their Impact upon the Existing)
Television Broadcast Service)
)

MM Docket No. 87-268

To: The Commission

COMMENTS IN SUPPORT OF PETITION FOR
RECONSIDERATION BY CERTAIN CHANNEL 2-6 LICENSEES

KHQ, Incorporated ("KHQ"), licensee of television station KHQ-TV, NTSC

Channel 6, Spokane, Washington, hereby submits these comments in support of the petition for reconsideration, filed on May 29, 1997, by an *ad hoc* group of commercial and noncommercial stations operating NTSC stations between channels 2 and 6, or slated to operate DTV channels between 2 and 6 ("*ad hoc* group"). The *ad hoc* group urged the Commission to consider all channels between 2 and 51 fairly and equally for inclusion in the core DTV spectrum.

As the *ad hoc* group noted, the Commission purported to develop the Table of Allotments using channels between 2 and 51, "without bias against the use of any channel in the span."¹ However, the Commission expressed reservations about the lower VHF channels, excluding them from the core spectrum until such time as they prove acceptable for DTV when it "will consider retaining these channels for DTV and adjusting the core spectrum to encompass channels 2-46 rather than channels 7-51."² KHQ agrees with the *ad hoc* group that the

¹ *Advanced Television Systems and Their Impact Upon Existing Television Broadcast Service*, Sixth Report and Order, FCC 97-115, at ¶ 76 (rel. Apr. 21, 1997) (hereinafter, "Sixth Report and Order").

² *Id.* at ¶ 83.

No. of Copies rec'd
L.S. ARDRE
029

Commission has inappropriately and unnecessarily discriminated against channels 2-6 NTSC and DTV stations for possible exclusion from the core spectrum.

As the *ad hoc* group explains, there is no conclusive evidence indicating that channels 2-6 will not be suitable for DTV transmission. If anything, the data from the Charlotte report supports the use of channels 2-6 because of the superior longer range propagation characteristics of these channels.³

KHQ-TV operates in one of the largest DMAs in the country, which stretches 270 miles from north to south and 280 miles from east to west and includes portions of four states. For most of this area, KHQ-TV is the sole source of NBC network programming. Because of low population density, large portions of the DMA are served off-air, either directly from KHQ-TV or by translators which in turn pick up the signal of KHQ-TV off-air. Given the favorable propagation characteristics of channel 6, KHQ should be afforded the opportunity to operate on DTV channel 6.

While continued channel 6 operations may provide the best means for KHQ to serve its audience, the Commission's suggestion that it would retain channels 2-6 in the Table only if they prove acceptable, presents difficult investment and planning decisions for KHQ. Until uncertainty as to the status of channel 6 is eliminated, KHQ will be unable to make rational decisions as to the optimum design of its DTV facilities. The nature of the investment in DTV necessarily depends on whether KHQ will be able to return to channel 6 after the transition. Accordingly, the Commission should confirm the availability of the lower VHF channels for DTV use to ensure efficient and prompt conversion by all licensees.

³ *Ad hoc* group petition at p. 5.

Nor is the potential for interference to channel 6 operations from non-commercial educational FM stations a basis for disfavoring allotment of channel 6 for DTV use.⁴ The Commission should not refrain from the use of channel 6 out of concern for interference problems which have been resolved successfully in the past and can be prevented in the future. As the *ad hoc* group suggests, the Commission should, in light of the especially favorable propagation characteristics of the channel 2-6 spectrum, encourage manufacturers to develop more robust receivers to alleviate noise and other interference problems.

For all of the foregoing reasons, KHQ supports the petition of the *ad hoc* group and urges the Commission to reconsider the Sixth Report and Order to the extent that it excludes channels 2-6 from the core spectrum. As its particular circumstances demonstrate, continued use of channel 6 will ensure over-the-air service to the widely-scattered viewers in KHQ's vast service area.

Respectfully submitted,

KHQ, INCORPORATED

By:



John C. Quale
David H. Pawlik
Skadden, Arps, Slate, Meagher & Flom LLP
1440 New York Avenue, N.W.
Washington, D.C. 20005
202-371-7000

Its Attorneys

July 18, 1997

⁴ See Opposition of National Public Radio, Inc., filed June 9, 1997.

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of July, 1997, I caused a copy of the foregoing "Comments in Support of Petition for Reconsideration by Certain Channel 2-6 Licensees" to be served by U.S. mail, postage prepaid on the following:

Kurt A. Wimmer
Erika F. King
Covington & Burling
1201 Pennsylvania Avenue, N.W.
P.O. Box 7566
Washington, D.C. 20044



John C. Quale